

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES

V.

NO. 04 10293 JLT

ANTHONY P. RAYMOND

DEFENDANT’S MOTION IN LIMINE - “SOFT EXPERTS”

The defendant suggests that it is the usual practice of the Government in drug cases such as this to utilize Government Agents to testify as “soft experts” concerning the *modus operandi* of drug traffickers.

The defendant suggests that in the case of *Kumho Tire Co. v. Carmichael*, 526 U.S. 137, 119 S. Ct. 1167 (1999), the United States Supreme Court ruled that the criteria of *Daubert* (*Daubert v. Merrell Dow Pharmaceuticals*, 509 U.S. 579 [1993]) apply to non-scientific, or, to “soft-expert testimony” as well as scientific evidence.

Because it is usually impossible to verify empirically the findings the Governments Agents testifying as soft experts and thus in most cases impossible to cross examine effectively because there is a complete dearth of empirical data, the “soft expert” can say whatever he or she wishes.

See *United States v. Hines*, 55 F. Supp. 2062 (D. Mass. 1999). (Handwriting “experts”).

Further, the defendant moves for pretrial hearing on the Daubert issues, wherein the soft expert should be required elucidate his or her methodology and experience, subject to cross examination.

/s/Roger Witkin

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Dated: September 12, 2005

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V. CRIMINAL NO. 04 10293 JLT

ANTHONY P. RAYMOND

CERTIFICATE OF SERVICE

I hereby certify that on this day a true copy of the within document was served upon the attorney of record for the United States, AUSA Paul Moore, and a courtesy copy to the Clerk of Court by mail and electronic filing, which was e-filed this day.

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DATE: September 12, 2005